

**STANDARD AGREEMENT**

APPROVED BY THE  
ATTORNEY GENERAL

2 (REV.5-91)

CONTRACT NUMBER <b>B81711</b>	AM. NO.
TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER <b>53-0201504</b>	

THIS AGREEMENT, made and entered into this 15th day of November, 1998,  
the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

NAME OF OFFICER ACTING FOR STATE <b>Secretary for Resources</b>	AGENCY <b>The Resources Agency</b>	Agency <b>U.S. Fish and Wildlife Service</b>
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, hereafter called the **State**, and  
the Contractor, hereafter called the Contractor.

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed,  
do hereby agree to furnish to the State services and materials as follows: *(Set forth service to be rendered by Contractor, amount to be paid Contractor,  
and for performance or completion, and attach plans and specifications, if any.)*

The Contractor agrees to the following:

**Section One: Purpose of Contract**

- A. This agreement is made in order for the contractor to conduct a set of meetings designed to gain agreement on the initial components of a study plan which will evaluate the feasibility of restoring anadromous fish runs above Englebright Dam on the Yuba River, as discussed in the attached memo dated December 9, 1998 (Exhibit C), which is attached and made a part of this Agreement by reference. CALFED has requested the Contractor and Department of Fish and Game personnel who are familiar with the issue to convene the meetings. The Contractor will conduct the meetings, provide a summary of meeting results, and assist in gaining consensus from all affected parties.
- B. Work will be performed in accordance with Exhibit A (Scope of Services and Budget), and Exhibit B (Resume), which are attached and made a part of this Agreement by reference.

CONTINUED ON 5 SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.

The provisions on the reverse side hereof constitute a part of this agreement.

I WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA	CONTRACTOR
AGENCY <b>Resources Agency</b>	CONTRACTOR (If other than an individual, state whether a corporation, partnership, etc.) <b>U.S. Fish and Wildlife Service</b>
BY (AUTHORIZED SIGNATURE) <b>&gt;</b>	BY (AUTHORIZED SIGNATURE) <b>&gt;</b>
PRINTED NAME OF PERSON SIGNING <b>Douglas P. Wheeler</b>	PRINTED NAME AND TITLE OF PERSON SIGNING <b>Marty Kjelson, Project Leader</b>
TITLE <b>Secretary for Resources</b>	ADDRESS <b>4001 N. Wilson Way, Stockton CA 95205</b>

AMOUNT ENCUMBERED BY THIS DOCUMENT \$	PROGRAM/CATEGORY (CODE AND TITLE)		FUND TITLE		Department of General Services Use Only
	(OPTIONAL USE)				
	ITEM	CHAPTER	STATUTE	FISCAL YEAR	
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$	OBJECT OF EXPENDITURE (CODE AND TITLE)				
TOTAL AMOUNT ENCUMBERED TO DATE \$	I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.				
SIGNATURE OF ACCOUNTING OFFICER		T.B.A. NO.		B.R. NO.	
		DATE			

## **Section Two: Background**

- A. This Agreement is made in accordance with the funds continuously appropriated for Category III activities referenced in Article 3, Chapter 4, Division 24 of the California Water Code, beginning with Section 78535, titled the Bay-Delta Agreement Program.
- B. Agency has designated the CALFED Bay-Delta Program or its successor entities (hereinafter referred to as CALFED) as its administrator of the contracts issued to public entities using Proposition 204 Category III funds. The Department of Water Resources (DWR) has been designated as Agency's fiscal agent for these funds.
- C. As used in this Agreement, "CALFED" means the consortium of state and federal agencies described in Water Code Section 78501 including those additional federal agencies participating in the Programmatic EIS/EIR for the CALFED Program, or its successor entity.

## **Section Three: Communication**

All communication between the parties should be directed to the individuals named below.

- A. The contract manager for CALFED is Jo Turner, who may be reached at (916) 653-6059 or jturner@water.ca.gov. Upon advance written notice to the Contractor, the contract manager may be changed at any time.
- B. The Contractor's project manager is Carl Mesick, who may be reached at (209) 946-6400 x 323 or cmesick@delta.dfg.ca.gov. Upon advance written notice to CALFED, the project manager may be changed at any time.

## **Section Four: Term of Agreement**

The term of this Agreement shall be from November 15, 1998 through June 30, 1999, but the Agreement shall not become effective until approved by the Resources Agency and notification to proceed has been issued by the contract manager.

## **Section Five: Contract Amount and Payment Provisions**

- A. The maximum amount payable under this Agreement shall not exceed \$7,333 and shall be disbursed pursuant to the Scope of Services and Budget (Exhibit A).

- B. The Contractor may submit invoices monthly, in triplicate, in arrears, bearing the contract number. Invoices shall be submitted in the format required by CALFED. Invoices shall be submitted to the following address:

Jo Turner  
CALFED Bay-Delta Program  
1416 9<sup>th</sup> Street, Room 1148  
Sacramento, CA 95814

- C. If there are any disputes regarding an invoice, the contract manager shall notify the Contractor of the reason for the dispute within 15 calendar days of receipt of a properly submitted invoice. Any disputed item will be subtracted and DWR will process payment on the undisputed amount. Dispute resolution will follow the procedure outlined in Section Eight.
- D. Payments shall be made on undisputed invoices within 60 days of receipt by the Contract Manager. Ten percent of any invoice provided for under this contract shall be withheld per Public Contract Code Sections 10346 and 10379 pending satisfactory completion of all services under the contract. This withheld amount may only be released subject to the written approval of the CALFED contract manager.
- E. Upon written approval of the contract manager, and as long as the total contract amount does not increase, the Contractor may adjust (1) the budget between individual tasks by no more than 10% and (2) the budget between individual line items within a task by no more than 10%. A request for a budget change shall be accompanied by justification showing that the overall scope of the project will not be compromised.
- F. The consideration to be paid to the Contractor, as provided herein, shall be used solely for the project's actual and direct costs, including but not limited to consulting, contract labor, materials, and equipment. Such costs shall not include any on-going operations, maintenance, administrative or other overhead expenses of the Contractor unless explicitly authorized in the Scope of Services and Budget.

#### **Section Six: Performance Responsibilities**

- A. Subcontracting. The Contractor will be responsible for all services to be performed under this agreement, including any subcontracted services. The subcontract and any amendments to the subcontract must be approved by the contract manager. In entering into any subcontract, the Contractor will obtain at least three (3) competitive bids, or comply with the provisions of Government Code, Section 4525 et seq., as applicable, or provide written justification for nonfulfillment of these requirements.

- B. Substitution of Subcontractors. Should the contract manager be dissatisfied with the work of subcontractors or employees of the contractor, the contract manager may require the Contractor to substitute different qualified subcontractors or employees. The contract manager must approve such substitutions in advance of the substitute subcontractor's providing services.

#### **Section Seven: Amendments**

By mutual agreement, the parties may amend this Agreement in writing. The Contractor shall submit a written request for amendment. The amendment is not effective until CALFED and Agency (as applicable) provide written approval of the amendment, its terms, and conditions. Work completed prior to approval of an amendment is done at the Contractor's risk, without expectation of reimbursement.

#### **Section Eight: Disputes**

If a dispute regarding this Agreement arises, the project manager shall submit a written dispute statement to CALFED for resolution. These statements shall contain a concise statement of the substance of the dispute, along with any supporting documentation including, but not limited to, invoices, time sheets, or photographs. The decision of the CALFED Executive Director shall constitute the final administrative forum for resolution of disputes.

#### **Section Nine: Reporting and Review**

- A. Reporting. The Contractor shall provide to CALFED written meeting agendas and summaries of meeting notes developed for three all-day meetings or two all-day meetings and two half-day meetings. The Contractor shall provide to CALFED any additional written materials regarding the meetings. Information should be provided in hard copy and electronically, if possible.
- B. Peer Review. As necessary, CALFED may establish peer review panels to review and comment on the Contractor's work products or deliverables.

#### **Section Ten: Standard Contracting Requirements**

- A. Rights in Data. Consistent with the Public Records Act, all data and information obtained and/or received under the terms of this Agreement shall be in the public domain. Consistent with the Public Records Act, the Contractor shall have the right to disclose, disseminate and use, in whole or part, any final form data and information received, collected and developed under this Agreement, subject to inclusion of appropriate written acknowledgment of credit to CALFED and all cost sharing partners for their financial support. Use of draft data requires pre-approval by CALFED. The Contractor shall not sell or grant rights to a third party who intends to sell such product as a profit-making venture.

- B. Standard of Professionalism. The Contractor shall conduct all work consistent with professional standards for the industry and type of work being performed under the Agreement. Among other things, and without waiver of other rights or remedies, the contract manager may require the Contractor to re-perform any of said services which are not performed in accordance with these standards. The Contractor shall perform the remedial services at its sole expense. The contract manager shall accept or reject the work and the results of the work based on conformity (or lack of conformity) with the scope of work, schedule, quarterly progress reports, deliverables and quality of standards specified herein.
- C. Indemnification. The Contractor agrees to indemnify, defend and hold harmless CALFED, the CALFED Agencies, and the State of California, their officers, agents and employees from any and all claims and losses accruing or resulting to any or all contractors, subcontractors, material persons, laborers, and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Agreement.
- D. Independent Status. The Contractor, and the officers, agents and employees of the Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of CALFED, the CALFED Agencies or the State of California.
- E. Termination Clause. The contract manager may terminate this Agreement and be relieved of the payment of any consideration to the Contractor should the Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, CALFED may proceed with the work in any manner deemed proper by CALFED. The cost to Agency or CALFED shall be deducted from any sum due the Contractor under this agreement, and the balance, if any, shall be paid to the Contractor. Either party may terminate this agreement by providing the other party with 30-days written notice. Reasonable and preapproved costs shall be paid only up to the date of the termination.
- F. Availability of Funds. This Agreement is subject to any additional restrictions, limitations or conditions enacted by the Legislature which may affect the provisions, terms or funding of this Agreement in any manner. Agency has the right to amend or terminate this Agreement should Category III funds not be available.
- G. Recycled Materials. Contractor hereby certified under penalty of perjury that 0 percent of materials, goods, supplies offered, or products used in the performance of this

Agreement meets or exceeds the minimum percentage of recycled material as defined in Section 12161 and 12200 of the Public Contract Code.

- H. Severability. If any provision of this Agreement is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable, and binding on the parties.
- I. Assignment. Without written consent of CALFED, this agreement is not assignable by Contractor either in whole or in part.
- J. Timing. Time is of the essence in this agreement.
- K. Incorporation of Exhibits. The attached exhibits are incorporated by this reference: Exhibit A: Scope of Services and Budget, Exhibit B: Resume, and Exhibit C: DWR 4247, Standard Clauses.